

DOCKET NO: 217781US2S

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
HIROO NAKANO : EXAMINER: BRANDON S. HOFFMAN  
SERIAL NO: 10/026,813 :  
FILED: DECEMBER 27, 2001 : GROUP ART UNIT: 2136  
FOR: DATA PROCESSING APPARATUS :  
AND MEMORY CARD USING THE  
SAME

RESPONSE TO NOTICE TO NON-COMPLIANT AMENDMENT (37 CFR 1.121)

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

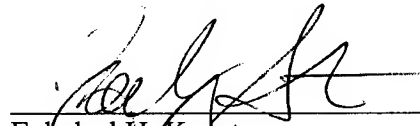
The Notice of Non-Compliant Response dated February 21, 2008, incorrectly asserts that the Amendment filed January 4, 2008 was non-compliant because a Request for Continued Examination (RCE) was not filed with the Amendment. Applicant respectfully traverses that assertion and submit that the filing of an RCE is not required.

The Decision on Appeal dated November 7, 2007, rejected Claim 1 on new grounds under 37 C.F.R. 41.50(b). Accordingly, under 37.CFR 41.50(b) and as discussed in MPEP 1214.01(A), Applicant has the option of reopening prosecution before the examiner by submitting an appropriate amendment. Further, during a telephone interview on March 18, 2008, Examiner Hoffman agreed that the Notice of Non-Compliant Response dated February 21, 2008 was improper, and Examiner Hoffman agreed that an RCE is not required because the Decision on Appeal rejected the claims on new grounds.

Accordingly, it is respectfully requested the Application be examined on the merits.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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